

REMARKS/ARGUMENTS

Pending claims 1-3, 6-10 and 12-14 stand rejected under 35 U.S.C. § 103(a) over U.S. Publication No. 2004/0014423 (Croome) in view of U.S. Patent No. 6,611,692 (Raffel). Applicant respectfully traverses the rejection and respectfully requests reconsideration of the same. As to claim 1, the Office Action concedes that Croome nowhere teaches determining a desired level of service and dynamically adjusting a number of time slots assigned to a wireless communication medium during data transmission to remain within limits of the desired level of service.

Nor does Raffel anywhere teach or suggest such dynamic adjusting, although the Office Action contends this:

In an analogous art, Raffel teaches 'Cordless cellular system'. Further, Raffel teaches if the mobile unit access is grant, determining a desired level of service; and dynamically adjusting a number of time slots assigned to the medium during transmission to remain within limits of said desired level of service (C9, L61-67, C10, L1-20)....

Office Action, p. 4.

However, neither these cited portions nor anywhere else in Raffel teach determining a desired level of service. The lack of a specific citation to any portion of Raffel that teaches such determining of a desired level of service is telling. If Raffel teaches such determining, where is the support in Raffel? Applicant respectfully requests identification of this support, or removal of the rejection.

Nor does Raffel anywhere teach or suggest dynamically adjusting a number of time slots assigned to a medium during data transmission to remain within the limits of the desired level of service. Instead, the cited portions of Raffel merely teach that a single TDMA frame includes multiple time slots, each of which is dedicated to a particular function. Raffel, col. 9, ln. 65-col. 10, ln. 63. Nowhere however does Raffel teach dynamically adjusting the number of time slots that are assigned to a given wireless communication medium, and certainly not such dynamic adjusting during a transmission to remain within limits of a desired level of service. Instead, Raffel teaches the opposite. That is, the slots associated with the cordless base station remain fixed. This is so, as the slots of the base station time frames remain fixed. For example, with reference to FIG. 4 and columns 9-10 of Raffel, time slots 2 and 5 are dedicated to a second mobile station, MS2, while time slots 3 and 6 are dedicated to a first mobile station, MS1. Thus

there is no determining of a desired level of service, nor of dynamically adjusting a number of time slots assigned to a medium during data transmission to remain within limits of the determined desired level of service.

The rejection of claim 1 over the proposed combination is further improper, as there is no legally sufficient motivation to combine the references. In this regard, all that the Office Action states is that it would have been obvious to modify Croome and Raffel, then the Office Action proceeds to recite the subject matter of claim 1. Office Action p. 4. This alleged motivation is conclusory and lacks a legally sufficient basis for the proposed combination. *In re Lee*, 61 U.S.P.Q. 2d 1430, 1435 (Fed. Cir. 2001). Even further, it is apparent from the Office Action that the proposed combination is nothing more than hindsight-based reconstruction, in contravention of well established Federal Circuit precedent, *e.g. In re Kotzab*, 55 U.S.P.Q. 2d 1313, 1316-17 (Fed. Cir. 2000). Accordingly, claim 1 and its dependent claims are patentable over the cited art.

Dependent claim 6 is further patentable, as the citation to Raffel nowhere teaches or suggests detecting a wireless communication medium that fails to meet a desired level of service, and allocating the medium to a configuration having additional time slots. This is so, at least because the cited portion of Raffel merely teaches registering a cellular telephone with a base station. In no way does this teach or suggest allocation of a medium to a configuration having additional time slots as a result of detecting that the medium fails to meet a desired level of service. For this further reason, claim 6 and the claims depending therefrom are patentable over the proposed combination.

Independent claim 8 stands rejected under §103(a) over Croome and Raffel. As to claim 8, nowhere does Croome teach or suggest selecting one of first and second wireless media to act as a common medium and routing a data transmission through the common wireless medium. In this regard, the Office Action contends that wireless access mechanisms 104 and 1104 correspond to the first and second wireless media. Office Action, p. 6. However, nowhere does Croome anywhere teach or suggest that one of these mechanisms can be selected as a common medium through which data transmissions are routed. Rather, second mechanism 1104 is only mentioned in passing (Croome, ¶74), and nowhere is it taught or suggested that this mechanism (or first mechanism 104) can be used as a common medium for multiple wireless media. Instead, each access mechanism is dedicated to a different function and the transmissions through these

media are independent and are not routed through a common wireless medium. Accordingly, claim 8 and the claims depending therefrom are patentable over the proposed combination.

Furthermore, to the extent that the Office Action appears to state that processor 1002 is a "common wireless medium," Applicant respectfully traverses the rejection. Clearly, processor 1102 of Croome is a hardware device, namely a processor. There is nothing in Croome that anywhere teaches or suggests that this hardware device can act as a wireless medium, and certainly not a common wireless medium as recited by claim 8.

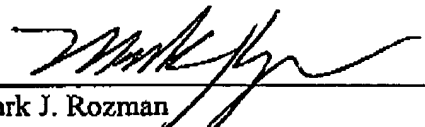
Furthermore, because Raffel adds nothing to the subject matter of this claim (it is respectfully noted that the Office Action fails to even mention Raffel in connection with this rejection of claim 8), there is absolutely no basis for a §103 rejection using Raffel. For at least the same reasons, independent claim 12 and the claims depending therefrom are patentable.

The rejection of claims 4, 11 and 15-17 under §103(a) over Croome in view of Raffel and in further view of an additional reference to Melaku is overcome, at least for the same reasons as the independent claims from which these claims depend.

In view of these remarks, the application is now in condition for allowance and the Examiner's prompt action in accordance therewith is respectfully requested. The Commissioner is authorized to charge any additional fees or credit any overpayment to Deposit Account No. 20-1504.

Respectfully submitted,

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Mark J. Rozman
Registration No. 42,117
TROP, PRUNER & HU, P.C.
1616 S. Voss Road, Suite 750
Houston, Texas 77057-2631
(512) 418-9944 [Phone]
(713) 468-8883 [Fax]
Customer No.: 21906